HUMAN RIGHTS COMMISSION
PRINCE EDWARD ISLAND

90-06607/

PO BOX 2000
CHARLOTTETOWN PE I
C1A 7N8
TELEPHONE (902) 368-4180
TOLL FREE IN PE I

Honourable Roberta M. Hubley
Minister Responsible for Human Rights
Province of Prince Edward Island
P.O. Box 2000
Charlottetown, PE
C1A 7N8

We are privileged to submit to you, the Minister Responsible for Human Rights within the Province of Prince Edward Island, the Twelfth Annual Report of the Prince Edward Island Human Rights Commission for the calendar year ending December 31, 1989.

Respectfully submitted,

Rev. J. Leo Trainor
Chairperson

The four symmetrical bodies of the logo, round heads and outstretched arms, represent the function of the P.E.I. Human Rights Commission — the protection of the human rights of the individual, as an individual and as a part of society. The outstretched limbs also represent the varying channels used by the Commission to reform, educate, and respond to complaints of individuals and groups.

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CHAIRPERSON'S REMARKS

As I start my second, three-year term as Chairperson of the P.E.I. Human Rights Commission, I find the Commission at the beginning of not only a new decade, but a new era of human rights on Prince Edward Island. I find myself with new colleagues on the Commission, a new staff, and new accommodations. Although change can sometimes be disturbing and unsettling, I welcome these changes and look forward to the next three years of progress.

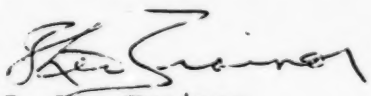
I first wish to express my appreciation to Shauna Sullivan Curley and Richard Noonan who served well the Commission and the people of Prince Edward Island during their terms. In their places, I welcome Lila Arsenault and Robert Campbell to the Commission. I also wish to express my appreciation to Fran Piercey who worked diligently and loyally for the Commission until she left for a well-deserved appointment with the Department of Labour. Unfortunately, we were never able to compensate Fran fully for her contribution to the operation of the Commission during her time of service. I welcome Jim Wyatt, our new Executive Director; Connie Weatherbie, our new administrative support person; and Lorraine Begley and Irene Larkin, our political belief complaints investigators.

I wish to make a special note of thanks to the members of the government, civil servants, and other members of the public who have assisted and continue to assist our investigators in dealing with the very difficult political belief complaints. Many people have felt unjustifiably threatened by these investigations, but to their credit have continued to cooperate. While our staff have been subjected to a number of unpleasant confrontations in the process of these investigations, there have also been a much greater number of examples of cooperation which could be cited.

As the 1990's start, the Commission has adopted a much different approach to its duties and responsibilities. This decade is commencing with a serious attempt at obtaining the resources required to carry out the Commission's mandate in a more efficient and effective manner. The Commission will continue to recommend changes to the procedures contained in the P.E.I. Human Rights Act and will encourage and participate fully in the development of a new human rights act for the province. The Commission is also commencing the decade with a renewed commitment to the Canadian Association of Statutory Human Rights Agencies with the Chairperson of the P.E.I. Commission acting as Vice-President of the Executive of that organization and President elect in 1990.

The annual convention of C.A.S.H.R.A. will be held in Charlottetown in June of 1991. It is our hope that the board of the International Association of Official Human Rights Agencies will hold its annual meeting at the same time as the C.A.S.H.R.A. convention. All of these activities place a strain on the Commission's resources in addition to the present strain of an ever-increasing complaint load. However, government has indicated a willingness during the past few years to increase the resources available to the Human Rights Commission in recognition of these changing responsibilities.

The Commission is hopeful that with the resolution of the political belief complaint backlog, the more efficient processing of complaints, and additional resources, the Commission will be much more pro-active and dynamic during the 1990's. I dedicate myself and my fellow commissioners and our staff to the goal of starting the 90's with energy and enthusiasm.



Rev. J. Leo Trainor
Chairperson

THE PRINCE EDWARD ISLAND HUMAN RIGHTS ACT

The P.E.I. Human Rights Act received the latest in number of amendments, stretching back to its proclamation on September 11, 1976, in June, 1989. This amendment was necessitated by the ambiguity in the prohibition against discrimination on the basis of political belief contained in the Act. This ambiguity was pointed out in a decision of the P.E.I. Supreme Court in March, 1988.

When the P.E.I. Human Rights Act was initially enacted, political belief was amplified by the phrase, "As registered under Section 24 of the Election Act". As it is political parties that are registered under Section 24 of the Election Act, and not political belief, the Supreme Court found that the prohibition against discrimination on the basis of political belief, as it was written in the Act, was incapable of interpretation. The amendment deleted the words, "As registered under Section 24 of the Election Act" from the appropriate sections of the Act and added a definition of political belief to the definition section of the Act. Political belief remains limited to political beliefs related to political parties which are registered pursuant to the Election Act.

While the new definition of political belief limits the evidence of such belief to membership in or contribution to a party registered under Section 24 of the Election Act or open and active participation in the affairs of such party, the P.E.I. Human Rights Commission has obtained a legal opinion which indicates that discrimination based on a perception of political belief, association with persons who hold political beliefs, and discrimination on the basis of the political belief of another, would all constitute discrimination based on this amended Act.

In January, 1989, a committee of the Legislature tabled a report in the House, outlining a number of recommended amendments which should be made to the P.E.I. Human Rights Act. The P.E.I. Human Rights Commission had had the opportunity to make a submission to this committee and many of the proposals of the committee were parallel to those put forward by the Commission. The Commission has subsequently suggested amendments based largely on the committee's report and because of the extensive nature of these amendments, has suggested to the Minister Responsible for the Human Rights Act that it is time to consider a new Human Rights Act.

While the form of a new Act might not change radically, in that it would remain anti-discriminatory in nature, there are many important amendments necessary to the procedural and administrative aspects of the Act.

Unlike the majority of other jurisdiction in Canada, the P.E.I. Human Rights Commission does not have the power to order a board of inquiry. Under the P.E.I. Human Rights Act, that power remains with the Minister Responsible for the Human Rights Act, and even under those circumstances, the decision of a board of inquiry is not binding on either of the parties to a complaint. The P.E.I. Human Rights Commission has recommended that the Commission itself have the power to decide whether or not a board of inquiry is to be called, and that the board of inquiry's decision would be binding on all parties.

Similarly, the present Act does not indicate who, if anyone, is responsible for carrying a complaint before a board of inquiry. The board of inquiry is tasked with investigating and attempting to reach a settlement, and the Commission is merely one of three parties before the Board. The Commission has recommended that the P.E.I. Human Rights Commission be responsible for presenting the facts to a board of inquiry.

In addition to these procedural matters, additional prohibited grounds have been recommended including family status, pregnancy, sexual harassment, source of income, sexual orientation, and criminal conviction. Some of these grounds are already contained in the Act under another prohibited ground, such as pregnancy which is now considered to be included within the prohibited ground of sex. Also, some would be limited. For example, an individual would only be protected against discrimination on the basis of a criminal conviction if a pardon had been granted or if the criminal offence was irrelevant to the employment, service, or accommodation sought.

While the Act has served Islanders well over the years, it is quickly becoming one of the oldest human rights acts still in force in the country. The Commission believes that it has a role to play in the development of new legislation and is prepared to participate in such an effort to the extent possible, while continuing to enforce the present Act.

THE P.E.I. HUMAN RIGHTS COMMISSION

The P.E.I. Human Rights Commission underwent a major change in membership during 1989. In February, Shauna Sullivan Curley resigned from Commission membership to take a position with the provincial Department of Justice. Also, in April, 1989, Richard Noonan announced his resignation to seek nomination for political office. Robert Campbell was appointed to finish the original term of Shauna Sullivan Curley, while Lila Arsenault was appointed to complete Richard Noonan's term. In August of 1989, Lila Arsenault was reappointed for a further term and in December, Rev. J. Leo Trainor was reappointed Chairperson for a second, three-year term. Therefore, at the end of 1989, the Commission was comprised of the following members:

Rev. J. Leo Trainor, Chairperson, appointed December 18, 1989 until December 18, 1992;

Robert Campbell, appointed March 9, 1989 until December 13, 1990;

Lila Arsenault, appointed April 27, 1989 until August 17, 1991

The Commission also had a complete turnover in its staff. On January 1, 1989 James Wyatt became the Executive Director and in April, Frances Piercey left the position of Research/Intake Officer to move to the provincial civil service. Connie Weatherbie was hired to provide administrative support.

COMMISSIONERS

REV. J. LEO TRAINOR, CHAIRPERSON, HOPE RIVER

Father Trainor is presently serving the parish of St. Ann's in Hope River. Prior to being assigned to this parish, he served the parish of St. Dunstan's Basilica in Charlottetown from 1983 to 1986. During this same period, he served as the Chaplain of Sleepy Hollow Correctional Centre. Father Trainor received his education at St. Dunstan's University, the University of Prince Edward Island, Memorial University of Newfoundland, and St. Augustine's Seminary in Toronto. Prior to attending St. Augustine's Seminary, he was employed with the federal government in Toronto and taught high school in Newfoundland. He received his Master of Divinity degree from St. Augustine's Seminary in 1983 and ordained to the priesthood in that same year in the Diocese of Charlottetown. Father Trainor is the official representative for Prince Edward Island on the Continuing Federal -Provincial-Territorial Committee of Officials Responsible for Human Rights.

ROBERT CAMPBELL, COMMISSIONER, SOUTHPORT

Robert Campbell currently holds the position of Registrar of the University of Prince Edward Island, appointed in July, 1988. Prior to this appointment, he served as an Associate Professor in the English Department of the University. Mr. Campbell received his education at the University of New Brunswick, obtaining his Ph.D. and M.A. (English). He has also received his B.Sc. in Geology from St. Francis Xavier University and Certificate in Education from the University of Manitoba. Mr. Campbell holds memberships in the Canadian Council of Teachers of English, the Board of Directors of the Atlantic Canada Institute, the U.P.E.I. Board of Governors, the Canadian Association for Scottish Students, and the North American Association for Celtic Studies. His services to committees include Chairman of Faculty of Arts Honours Program Committee and a committee attempting to bring Acadian studies to U.P.E.I., Chairman of the English Department since 1982, and Co-Chairman of the Celtic Studies Committee since 1986.

LILA ARSENAULT, COMMISSIONER, SUMMERSIDE

Lila received her high school education in St. Nicholas, P.E.I. and took business education courses at St. Mary's Convent in Summerside. Lila is presently the Administrative Assistant for the Imperial Oil division in Summerside. Prior to this, she was employed as a dental assistant. Ms. Arsenault's community involvement includes being past President of the St. Paul's Catholic Women's League in Summerside for two terms, past President of the St. Paul's Parish Council, Past Secretary of the Summerside Mardi Gras for fifteen years, and past President of the Fifth Prince Liberal Women's organizations. She has served as Secretary of the Summerside French Social Club for two terms, team captain for the P.E.I. Division of the Canadian Cancer Society, canvasser for the Heart Foundation, Diabetic Association, Red Cross, and St. Thomas Aquinas Association.

COMMISSION STAFF

JAMES WYATT is a lawyer who was admitted to the bar of Prince Edward Island in 1988, following an extensive career as a public servant with Canadian Armed Forces, Province of Saskatchewan, Canada Employment and Immigration Commission, and Department of Veterans' Affairs. He holds the Canadian Forces declaration, a certificate and diploma in Public Administration from the University of Prince Edward Island and an L.L.B. from the University of Toronto. He is presently serving on the Board of Directors of Big Brothers/Big Sisters of Prince Edward Island and is the Secretary of that organization. He is also on the Board of Directors of the Community Legal Information Association and is President of the P.E.I. Roadrunners' Club.

CONNIE WEATHERBIE received her high school education at Souris Regional High School and her post-secondary education in the Office Administration program at Holland College in Charlottetown. Upon completion of this program in 1989, she achieved a profile of Executive Secretary. Since obtaining her administrative support position with the Commission, she has completed computer courses in Word Star 2000, PC File Plus, and Bedford Accounting.

COMMISSION HIGHLIGHTS

During 1989, the Commission dealt with a number of major issues, policies, procedure, and events.

1. One of the most important events to occur during 1989 was the complete turnover of the Human Rights Commission staff and the change in two of three members of the Commission itself. This might have a negative impact on the Commission's efficiency as new staff learn their duties and Commissioners become familiar with their roles, but such problems will be short-lived.

2. In the fall of 1988, the P.E.I. Human Rights Commission made a submission to the Legislative Committee studying the P.E.I. Human Rights Act. This committee's report was tabled in the Legislature in January, 1989.

3. In the fall of 1988, the Commission moved to new offices located at 3 Queen Street. Throughout fiscal year 1988/89 and 1989/90, the Commission has been able to purchase new furniture for its offices and computerize its administrative functions.

4. At the convention of the Canadian Association of Statutory Human Rights Agencies held in June, 1989 in Victoria, B.C., Prince Edward Island was chosen as the host jurisdiction for the 1991 convention of this organization. C.A.S.H.R.A. is made up of all the statutory human rights agencies from each of the provinces, territories, and the federal government. At the same convention, the Chairperson of the P.E.I. Human Rights Commission, Rev. J. Leo Trainor, was elected Vice-President of the C.A.S.H.R.A. Executive.

5. In September, 1989, the P.E.I. Human Rights Commission hosted a meeting in Charlottetown of the Canadian Association of Statutory Human Rights Agencies Sub-Committee on Human Rights Training. The Commission was represented by its Executive Director at these meetings.

6. The P.E.I. Human Rights Commission received additional funds and was able to hire two investigators, Lorraine Begley and Irene Larkin, in December, 1989. The money allocated was targeted to deal with the backlog of political belief complaints which, at that time, numbered 87.

7. The Chairperson of the P.E.I. Human Rights Commission or his nominee represented the province at three meetings of the Federal/Provincial Continuing Committee on Human Rights, as well as a number of Executive meetings of the Canadian Association of Statutory Human Rights Agency.

8. During the year 1989, a review and revision of most of the policies of the Commission was carried out and many of the handouts available for the public have been amended accordingly.

COMPLAINT STATISTICS FOR 1988 AND 1989

What follows on the next six pages are the complaints filed and dealt with during 1988 and 1989. Each separate ground of complaint is considered to be a separate complaint for the purposes of these tables.

COMPLAINTS CARRIED OVER TO 1988

	Employment	Services	Accommo-dations	Facilities	TOTAL
Age	3	3	1	1	8
Race/Color/Creed	1	-	-	-	1
Ethnic/National Origin	-	-	-	-	0
Marital Status	1	-	2	-	3
Physical Handicap	7	5	1	1	14
Mental Handicap	2	-	-	-	2
Religion	2	-	-	-	2
Sex	15	1	-	-	16
Political Belief	-	-	-	-	0
Association	4	-	1	-	5
Filed Previous Complaint	2	-	1	-	3
TOTALS	37	9	6	2	54

CATEGORIES OF FORMAL, SIGNED COMPLAINTS INITIATED IN 1988

	Employment	Services	Accommo-dations	Facilities	TOTAL
Age	3	2	2	-	7
Race/Color/Creed	-	-	-	-	0
Ethnic/National Origin	1	2	-	-	3
Marital Status	1	1	-	-	2
Physical Handicap	2	8	-	1	11
Mental Handicap	-	1	-	-	1
Religion	1	-	-	-	1
Sex	3	-	-	-	3
Political Belief	-	-	-	-	0
Association	-	-	3	-	3
Filed Previous Complaint	1	-	1	-	2
TOTALS	12	14	6	1	33

COMPLAINTS SETTLED, IN PROCESS OF SETTLEMENT, OR WITHDRAWN IN 1988

	SETTLED/ DISMISSED	PROCESS OF SETTLEMENT	WITHDRAWN	TOTAL
Age	3	1	1	5
Race/Color/Creed	1	-	-	1
Ethnic/National Origin	1	-	2	3
Marital Status	2	-	-	2
Physical Handicap	8	1	1	10
Mental Handicap	1	-	-	1
Religion	1	-	1	2
Sex	3	2	7	12
Political Belief	20	-	-	20
Association	1	-	1	2
Filed Previous Complaint	-	-	-	0
TOTALS	41	4	13	58

COMPLAINTS CARRIED OVER TO 1989*

	Employment	Services	Accommo-dations	Facilities	TOTAL
Age	4	4	3	1	12
Race/Color/Creed	-	-	-	-	-
Ethnic/National Origin	-	1	-	-	1
Marital Status	2	-	1	-	3
Physical Handicap	4	6	-	3	13
Mental Handicap	1	1	-	-	2
Religion	1	-	-	-	1
Sex**	14	1	-	-	15
Political Belief	-	-	-	-	0
Association	2	-	3	-	5
Filed Previous Complaint	2	-	-	-	2
TOTALS	30	13	7	4	54

* Where complaints are made on more than one ground, each ground is considered a separate complaint.

** The Supreme Court of Canada confirmed in decisions in May, 1989 that discrimination on the basis of pregnancy and that sexual harassment constituted discrimination on the basis of sex.

CATEGORIES OF FORMAL, SIGNED COMPLAINTS INITIATED IN 1989

	Employment	Services	Accommo-dations	Facilities	TOTAL
Age	2	-	-	-	2
Race/Color/	-	3	-	-	3
Ethnic/National Origin	1	1	-	-	2
Marital Status	3	2	1	-	6
Physical Handicap	4	5	-	3	12
Mental Handicap	-	-	-	-	0
Religion/Creed	-	-	1	-	1
Sex	7	1	-	-	8
Political Belief*	119	-	-	-	119
Association	2	-	-	-	2
Filed Previous Complaint	-	-	1	-	1
TOTALS	138	12	3	3	156

* Because of the amendment to the Human Rights Act in June of 1989, 117 complaints alleging discrimination on the basis of political belief which had been filed prior to March, 1988 were reactivated.

COMPLAINTS SETTLED, IN PROCESS OF SETTLEMENT, OR WITHDRAWN IN 1989

	SETTLED/ DISMISSED	PROCESS OF SETTLEMENT	WITHDRAWN	TOTAL
Age	3	3	2	8
Race/Color	2	1	-	3
Ethnic/National Origin	3	-	-	3
Marital Status	4	-	1	5
Physical Handicap	6	5	3	14
Mental Handicap	-	-	-	0
Religion/Creed	-	-	-	0
Sex	2	4	10*	16
Political Belief	1	-	31**	32
Association	1	1	-	2
Filed Previous Complaint	-	-	1	1
TOTAL	22	14	48	84

* Seven of these complaints involved sexual harassment allegations at one place of employment.

** When the Human Rights Act was amended in June, 1989, complainants who had filed complaints alleging discrimination on the basis of political belief prior to March, 1988 were canvassed and 31 complaints were withdrawn.

SAMPLE COMPLAINTS

EMPLOYMENT/PHYSICAL DISABILITY:

A man alleged that he was dismissed from employment as an insurance salesman because of a mild form of haemophilia. The company involved denied that the sale of life insurance was, in fact, employment and that they had an employment relationship with this individual. In the process of applying for his appointment as an insurance agent, the individual was required to fill out a number of application forms which required extensive revelation of physical/medical conditions. The complainant had become so used to his condition and considered it so insignificant, that he neglected to indicate the problem on his first medical history. When he was in training in Halifax, he did reveal the existence of his condition and was immediately terminated from training. The settlement involved the payment by the company of certain expenses incurred by the individual in participating in the training and a lump-sum cash settlement.

EMPLOYMENT/SEX/MARITAL STATUS:

A student alleged that she was not hired because of her age and/or her marital status. The investigation revealed that, in fact, she had been asked her age prior to being invited for an interview and during the process of the interview was asked a variety of questions relating to her marital status. The Commission concluded that there was sufficient evidence to support her allegations that age and/or marital status was one of the factors resulting in her not being hired despite the fact that she had ample qualifications for the position. There was a cash settlement of this complaint.

FACILITIES/PHYSICAL DISABILITY:

An individual whose physical condition confines him to a wheelchair was unable to gain access to a government supported agency because he could not negotiate the step in front of the building. The landlord acknowledged that the building was not wheelchair accessible and proceeded to design ramping to deal with the problem. Because the building was of historic significance and located in the city of Charlottetown, the city became involved in attempting to rectify the matter and in fact, the final solution was to raise the sidewalk in front of the building so that direct access into the main floor was possible for wheelchairs.

SERVICES/RACE/MARITAL STATUS:

A male alleged that he was unable to obtain a free hunting or fishing license available to native Indians, farmers, fishermen, farm labourers, and their spouses. His allegation was that because he was not married to a farmer, fisherman, or farm worker that he was being denied free access to a fishing and hunting license. Similarly, he alleged that because he was not a native Indian he was also being denied this service. Following an investigation, the Commission found that an individual could not allege discrimination on the basis of who he was not married to, although discrimination on the basis of who an individual is married to is included under the prohibition against discrimination on the basis of marital status. His complaint of discrimination on the basis of race was also denied. The provision of free hunting and fishing for native Indians was considered to be compliance with the right already available to native Indians pursuant to treaties executed by the government of Canada or its colonial predecessor. As a result, the only remedy available to the Human Rights Commission would be a deletion of this provision from the Act involved which would not result in any change to the right to free fishing and hunting.

SERVICES/PHYSICAL OR MENTAL DISABILITY:

A woman was cross-addicted to drugs and alcohol and required institutional treatment for her addictions. She had a loan with a lending institution which was insured against loss of ability to make payments on the loan because of illness. She was advised by an employee of the lending institution that her confinement for alcohol and drug addiction was not covered by the insurance plan for which she had been paying. An investigation indicated that this was not true and that the insurance company was quite prepared to make the payments on the loan during the period of her inability to work as a result of her addictions. In the meantime, the individual had gone through considerable stress because of the denial of services, but had maintained her payments. When the insurance payment was made, it required considerable effort on the part of the Commission to ensure that the payment was applied to ensure that the individual received the benefit that she would have had if had she received her insurance when initially requested. In addition, there was a financial settlement.

ACCOMMODATION/MARITAL STATUS:

A single mother with three children alleged that she was denied access to an apartment complex because of the reputation that her previous husband had and a fear on the part of the landlord that the husband would be a regular visitor and cause damage to the building. The investigation discovered that the organization which acted as the landlord for this particular building was not concerned with the complainant's husband, but, in fact, were renting apartments based on size standards imposed upon them by the agency which financed the building. The organization was applying these standards without exception and on the basis of them, the complainant required a three-bedroom apartment. During the time period, three-bedroom apartments had not become available and the organization was insistent upon not renting two-bedroom apartments to families which required three bedrooms. The Commission concluded that there may be some evidence that these standards discriminated against individuals with large families and an argument could be made that this was discrimination on the basis of family status. But family status is not in the P.E.I. Human Rights Act. In this case, there was not sufficient evidence to support the complaint on the basis of marital status.

SERVICES/ETHNIC OR NATIONAL ORIGIN:

An individual was denied financial assistance required to set up a business located at one of the extremities of the province. The individual, who does not appear to be of a different national or ethnic origin, spoke with a heavy accent which readily identified him as being from another country. He alleged that this was one of the reasons why he was refused the funding. An investigation could find no evidence that the individual's ethnic or national origin was a consideration when the assessment and decision was made. Rather, the grant was denied on the basis of the practicality of the business plan and whether or not the business would flourish in a limited market. The Commission found that there was insufficient evidence to substantiate this individual's allegation of discrimination on the basis of ethnic or national origin.

EMPLOYMENT/AGE:

A young woman was fired by an employer and told by the employer the reason was because of her age. The suggestion was made as well that she return to school. The investigation pointed out that the employer had no intention to discriminate against the woman on the basis of her age, but rather had every intention to fire her because of performance shortcomings.

The Commission found that while there was no intent to discriminate, the action taken was discriminatory, and the allegation of discrimination on the basis of age was substantiated. A cash settlement relating to a reasonable period of notice was made.

PROJECTED GOALS FOR 1990/91

The projected goals of any organization are always closely tied to budget considerations and as a result, the goals presented in this report differ from those of previous reports in that they parallel the fiscal year instead of the calendar year. Among the goals and objectives of the Commission for the fiscal year 1990/91 are the following, all of which are contingent upon receiving adequate funding:

1. Dealing with the political belief complaint backlog:

   The Commission is committed to clearing up the backlog of over 80 complaints which are again active because of the amendment to the Human Rights Act passed by the Legislature in June, 1989. Some of these complaints date back to 1980 and the Commission plans that all complaints will be investigated and an opinion by the Commission rendered on each prior to June 30, 1990. While the Commission cannot control the demands and offers of the parties during the settlement process, the Commission is also hopeful that in many of the complaints where allegations are substantiated in the Commission's opinion, settlement action follow. Meeting this goal will, of course, depend the availability of resources for the investigation.

2. Development of an effective, comprehensive education program:

   The development of its education program pursuant to the mandate contained in Section 18(b) of the Act remains a priority with the Commission. The present education program of the Commission consists of reaction to requests by community groups and some pro-active activities as resources are available. The Commission does not accept this as a satisfactory approach to the education of the population of Prince Edward Island regarding human rights, but recognizes the limitations it has with its present staffing levels. If budget allotments for the fiscal year 1990/91 allow the hiring of an additional staff member, effort will be made towards the achievement of an improved education program.

   Development of such a program would include the identity of educational opportunities, target groups, and resource sources in addition to the Commission itself. The Commission would be able to not only update the resource material it has available, but also develop new materials.

The procedures presently in use by the Commission in processing complaints have not been adequate in dealing with the complaints rapidly and effectively. The Commission is satisfied that there are better and more efficient means of dealing with human rights complaints than those presently used by the Commission. Therefore, once again, dependent upon resources, the Commission will undertake to review its procedures.

4. 1990 C.A.S.H.R.A. Convention:

The Commission, with the support of the Province of Prince Edward Island, has agreed to host the 1991 convention of the Canadian Association of Statutory Human Rights Agencies. It is possible that his will be the first meeting of C.A.S.H.R.A. at which an American presence will be felt. There may be a board meeting of Board of the International Association of Official Human Rights Agencies held at the same time. The convention is tentatively scheduled for the week of June 24, 1991. The convention lasts for 2 1/2 days with a number of associated meetings both before and after. Approximately 100 individuals are expected to attend representing human rights organizations from the ten provinces, the Yukon and the Northwest Territories, as well as Canada. In addition, the Federal/Provincial Continuing Committee on Human Rights historically holds a meeting immediately prior to the C.A.S.H.R.A. convention. The Commission has sought additional resources to assist in the planning of these activities.

5. Review and Recommendation of Changes to the P.E.I. Human Rights Act:

The P.E.I. Human Rights Commission looks forward during the coming year to an increased responsibility in providing input to government on amendments to or revision of the P.E.I. Human Rights Act. The Commission has a responsibility pursuant to Section 18(c) and 18(e) of the Act to advise government regarding recommendations for changes to the Act. The Commission believes that it is part of its mandate to remain current on the latest legislative developments in the field of human rights. The Commission will make every effort to remain up to date on advances on human rights and the latest statutory action by other jurisdictions so that it is prepared to assist as required to ensure that Prince Edward Island obtains the most comprehensive and just human rights legislation possible.

P.E.I. HUMAN RIGHTS COMMISSION

AND

POLITICAL BELIEF INVESTIGATIONS

The P.E.I. Human Rights Act has included a prohibition against discrimination on the basis of political belief since it was first declared in 1976. Until 1988, the prohibited ground of discrimination was referred to in the Act as "political belief as registered under Section 24 of the Election Act". Between 1976 and 1988, the Commission adjudicated 24 separate formal complaints alleging discrimination on the basis of political belief. In many of these complaints, the Commission reached the conclusion that the complaint of discrimination was justified and settlement was achieved between the parties in most of these complaints. Following the 1986 election, there was a large influx of complaints of this nature which led the government of the day to refer the interpretation of "political belief as registered under Section 24 of the Election Act" to the Supreme Court of Prince Edward Island for a decision on whether or not that phrase was capable of interpretation. This problem in interpretation arose as political beliefs are not registered pursuant to Section 24 of the Election Act. Rather, it is political parties which are registered under Section 24 of the Election Act. The P.E.I. Supreme Court ruled in March, 1988 that, in fact, this section in the P.E.I. Human Rights Act was incapable of interpretation, and the prohibition against discrimination on the basis of political belief was effectively removed from the P.E.I. Human Rights Act.

In June, 1989, the Legislature passed an amendment to the P.E.I. Human Rights Act which deleted the phrase "as registered under Section 24 of the Election Act" from the appropriate sections of the Act, leaving the prohibited ground of discrimination merely "political belief". In addition, a definition of political belief was placed in Section 1 of the Act which indicated that the political belief protected under the Act was political belief which related to the beliefs of parties registered under Section 24 of the Election Act. The definition goes on to indicate that proof of such a political belief can be established by membership in or contribution to the party or by open and active participation in the affairs of the party. This amendment was deemed to have come into force on March 25, 1988, the date of the Supreme Court decision on the reference regarding political belief and was to apply to any complaint filed with the Commission before that date.

The P.E.I. Human Rights Commission, in addition, has received a number of legal opinions relating to this amendment which indicate that the Commission is obligated to deal with any complaint filed with the Commission which was not finally dealt with prior to March 25, 1988. This would exclude any complaint in which a settlement had been reached or any complaint which had proceeded to a conclusion of a public board of inquiry. The Commission has also been advised that an individual would be discriminated against on the basis of political belief if the action taken was based on a perception that an individual is a supporter of a particular party or if the action is taken to provide a service or benefit for another person based on that person's political belief.

There are a number of other tenants of human rights law which the Commission wishes to make clear are being applied in its dealings with the political belief complaints presently before it. Firstly, an allegation must be proven on the basis of the balance of probabilities. This burden of proof has been described as reaching a position where it is more likely than not that the alleged discrimination occurred. This burden of proof is considerably lower than the criminal burden of requiring proof beyond a reasonable doubt. Secondly, the alleged discrimination need only be <u>one</u> of the factors involved in the decision to take a particular course of action. That means, for example, that if an individual had a poor performance record and was being fired from a position because of that record, but at the same time the employer's mind was turned to the individual's political belief and this was one of the factors involved in the decision to terminate, political belief discrimination would be indicated. Lastly, there is no requirement to demonstrate that the individual or organization which committed the alleged act of discrimination intended to do so. It is sufficient to be a contravention of the <u>Human Rights Act</u> if, in fact, a discriminatory result does occur. These rules are those commonly followed by boards of inquiry, human rights tribunals, human rights commissions, and the courts across Canada.

The Commission is of the opinion that there are three basic steps to an investigation of a complaint alleging discrimination on the basis of political belief. The first step is to establish via confirming evidence, the political belief or perception thereof of the individual making the complaint. The second step is to analyze the transaction which resulted in the complaint being lodged. This includes gathering the evidence of witnesses to the transaction, similar fact evidence relating to the normal operation of such transactions, and reasons for any variation in the normal transaction.

The third portion of such an investigation is the establishment of the political belief of any individual who may be involved as a third party. For example, such an individual may be a replacement in employment of the individual who filed the complaint or a person who received the service supplied for by the complainant instead of him/her. Political parties have historically been extremely protective of their membership lists, their contribution lists, and the lists of individuals who perform a variety of functions on their behalf. These would be the obvious and easy sources of information with regards to an individual's political belief. The more difficult route, and that which the Commission has been required to take to date, is to locate sources within a community who are willing to discuss political beliefs and who are convincing and authoritative sources of such evidence. However, the Commission has an obligation pursuant to the Act to carry out these investigations and will attempt to do everything in its power to ensure that each investigation is a complete one.

The Commission believes that in a democratic society such as ours, every individual should be free to participate to the fullest extent they wish in partisan activities without the threat of loss of employment or other benefits because of that activity. The reaction the Commission has received to its investigation of these political belief complaints points up the fear which individuals have of being identified too closely with the party system which exemplifies our form of democracy. The Commission's role, once it has recommended amendments to the Act and stated its stand on such issues, is to enforce the Act as presented to it by the Legislature. That is what the Commission is attempting to do with regards to the backlog of political belief complaints to the extent that it is capable, given the limitations to its resources.